

(2008) 09 AP CK 0107

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 690 of 2003

Rajagopalapeta Leelanandam

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 15-09-2008

Acts Referred:

Dowry Prohibition Act, 1961 — Section 4

Penal Code, 1860 (IPC) — Section 107, 109, 304B, 305, 306

Citation : (2008) 2 ALD(Cri) 932 : (2009) 1 ALT(Cri) 149 : (2009) CriLJ 286

Hon'ble Judges : G. Yethirajulu, J

Bench : Single Bench

Advocate : O. Kailashnath Reddy, for the Appellant; Public Prosecutor, for the Respondent

Judgement

G. Yethirajulu, J.—The Revision Petitioner is A-1 in S.C. No. 491 of 2000 on the file of the II Additional Assistant Sessions Judge, L.B. Nagar, Rangareddy District.

2. The Sessions Case was filed against six Accused and charges were framed against all of them for the offences u/s 304-B of IPC and Section 4 of the Dowry Prohibition Act. A-1 to A-6 were acquitted for the offences u/s 304-B of IPC and Section 4 of the Dowry Prohibition Act. But, A-1 was convicted for the offence u/s 306 of IPC and sentenced to undergo rigorous, imprisonment for seven years and to pay a fine of Rs. 5,000/-, in default to suffer simple imprisonment for six months. Being aggrieved by the same, A-1 preferred CrI.A. No. 88 of 2002 before the III Additional Sessions Judge, L.B. Nagar, Rangareddy District and the Appellate Court, while dismissing the Appeal, reduced the sentence of imprisonment to three years and confirmed the sentence of fine.

3. Being aggrieved by the same, A-1 preferred the present Revision Case by contending that there are no ingredients to attract the provisions of Section 306 of IPC; that the lower Court, while disbelieving the prosecution regarding the harassment and in the light of the prosecution witnesses making deliberate improvements, ought to have thrown out their evidence as false and unreliable

and that the Court ought to have drawn adverse inference against the prosecution and acquitted the Accused.

4. The case of the prosecution, leading to the conviction of the petitioner, is as follows:

A-1 married the deceased on 06-12-1996. PWs. 1 and 2 are the parents of the deceased. PWs.3 and 5 are the sisters of the deceased. A-2 and A-3 are the parents of A-1. A-4 and A-5 are the brother and sister of A-1. A-6 is the husband of A-5. After the marriage, the deceased lived happily with A-1 for about two months. Thereafter, A-1 demanded PW-1 to give Rs. 75,000/- on the pretext of purchasing a residential portion by the side of his shop. PW-1 expressed his inability to pay the said amount. Since then, A-1 used to torture the deceased physically and mentally on one ground or the other. He found fault with the deceased whenever she looked outside through windows and whenever the public looked at her while traveling on the scooter. He was also commenting that the deceased was looking for her paramours. A-2 to A-6 also supported A-1 and instigated him in harassing the deceased. The deceased used to narrate the ill-treatment to PWs. 1 and 2 whenever there is an opportunity and they used-to advise the deceased to be cool and calm and bear with the harassment for sometime hoping that the things would be better in future. PWs. 1 and 2 requested the Accused not to ill-treat the deceased, but there was no change in their attitude. On the occasion of a function in the house of A-5 and A-6, the deceased served food to her maternal uncles for which A-1 objected and beat her indiscriminately with iron rod alleging that they are her paramours. When she told her co-sister Sharada to take care while throwing water after cleaning the cups, Sharadha and A-2 beat the deceased on such instruction. The Accused also demanded a TV and refrigerator from the parents of the deceased. PW-1 gave a black and white assembled TV about 10 days prior to the date of incident and promised to give the refrigerator after 15 days. But, the Accused did not stop the ill-treatment. On 25-08-1998, all the Accused assembled on the terrace of their house and stated that the mother and grandmother of the deceased practiced sorcery on them and they threatened to kill the deceased and throw the dead body in the tank near their house. The deceased informed the same to PW-3 when she came to her house on 26-08-1998 to invite her to Lakshmi Pooja in her house on 28-08-1998. The deceased, having disgusted with the attitude of the Accused, consumed poison on 27-08-1998 at 8-30" AM and died on the same day in her bed room. The Accused forcibly opened the doors and found the deceased in the last stage of her life. After giving some treatment, they informed at 9-00 AM on the same day to PWs. 1 and 2, that they admitted the deceased in Osmania General Hospital for treatment. PWs. 1 and 2 rushed to the Hospital and on enquiry, they came to know that no such person with the name of the deceased was admitted in the hospital. When they rushed to the house of the Accused, they found the dead body of the deceased. PW-1 observed injuries on the body of the deceased and gave a report to the police.

5. The learned Counsel for the petitioner submitted that there was no material placed by the prosecution to prove the ingredients of Section 107 of IPC, therefore, the question of abetment of the offence by the petitioner does not arise.

6. The learned public prosecutor submitted that the deceased died within seven years from the date of marriage, therefore, the presumption under law can be drawn that A-1 was responsible for the death of the deceased and the lower Court rightly convicted him and there are no grounds to set aside the judgments of the Courts below.

7. In the light of the rival contentions, the point for consideration is:

Whether the prosecution proved the guilt of A-1 beyond reasonable doubt for the offence u/s 306 of IPC and whether the conviction and the sentence imposed on him by the Courts below for the offence u/s 306 are liable to be set side or modified?

8. The Accused did not point out any procedural irregularity or illegality in the trial of the case. It is an undisputed fact that the deceased was married to A-1 on 06-12-1996 and she died on 27-08-1998, therefore, it indicates that the death of the deceased occurred within one year and eight months from the date of marriage.

9. In Ex.P-1 complaint, PW-1 mentioned that after the marriage, A-1 and the deceased lead happy marital life for about two or three months. Later, the deceased was put to physical and mental harassment by A-1. Whenever the deceased opens the door of the window for getting air, A-1 used to beat her by saying that she was looking at her paramours. Whenever she was going on his scooter, if anybody happens to see her, A-1 used to question the deceased whether those men are her paramours and used beat her on the way. In the house also, A-1 used to beat her with stick and iron rod. He consoled the deceased and asked her to be patient expecting the change in the mind of A-1. When there was a function in the house of PW-5, the deceased served food to men. On seeing that, A-1 beat her by saying as to why she spoke to them. The mother of A-1 also used to instigate him to beat her. On 27-08-1998 at about 9-00 AM, somebody telephoned and informed that the deceased was admitted in Osmania General Hospital. When they went to the hospital, it was informed that no person with the name of the deceased was admitted. When they went to the house 0; the Accused, they found the deceased lying dead, therefore, requested to take action against the Accused.

10. PWs. 1 and 2 narrated the information given by the deceased and others about the physical and mental harassment made by A-1 and also about the demand of additional dowry, TV, Refrigerator etc.

11. PW-3, the elder sister of the deceased, deposed that about three months after the marriage, the deceased came to her house and told that A-4 gave some

medicine to her to reduce the fat to enable her to give birth to children, but the deceased did not take the medicine. On 26-08-1998, i.e., one day prior to the date of incident, she went to the house of A-1 to invite the deceased for Varalakshmi Pooja to be performed on 28-08-1998. On seeing her, the deceased wept. When she asked as to why she was weeping, the deceased told that on 25-08-1998, A-1 to A-4 went to the terrace and were saying that PW-2 used to render some manthras against them to spread sorcery. On that ground, A-1 beat the deceased on 25-08-1998 and the deceased shown injuries to her. The deceased also informed that A-1 warned her that he will kill her and throw into the tank.

12. PW-4, who is a caste elder, deposed that on the information given by PW-1 that A-1 to A-3 were harassing the deceased demanding more dowry and also by suspecting her character, PW-1 and himself went to the house of A-1 and questioned the Accused about the harassment. But, the deceased intervened and requested them not to ask the Accused about the harassment.

13. PW-5, the elder brother of the deceased, deposed that he visited the house of A-1 three or four times. The deceased told that A-1 was beating her on the ground that he was visiting their house frequently and she requested him not to come to their house.

14. PW-6, a private medical practitioner, deposed that when the deceased came alone to his clinic for treatment, he enquired about her and she informed that A-1 was harassing by suspecting her and her in laws also demanding for more dowry. On 02-08-1998, on the instructions of his father, he went to the house of PW-1 and found the deceased weeping in the presence of A-1 and A-2. When he asked as to why she was weeping, the deceased told that Sharada thrown water on her after cleaning the cups and in that connection, when she questioned Sarada as to why she throw dirty water on her, A-3 abused and beat her. The deceased also told that A-1 beat her with iron rod on her left knee.

15. PW-12, the doctor, who conducted postmortem examination over the dead body of the deceased, found an abrasion of 1/2 cm x 1/2 cm reddish in colour 3 cm in front of right ear. He opined that the death of the deceased was on account of organo phosphate poison.

16. PW-13 is a scientist, who identified the handwriting of the deceased on Exs.P-4 to P-7, letters addressed by her to her mother.

17. The letters covered by Exs.P-4 to P-7 were said to be written by the deceased to her mother. In Ex.P-4, the deceased expressed her anguish as to how she has to lead marital life successfully if A-2 comes and talks to A-1 frequently. A-3 also instigates A-1 to beat her. In Ex.A-5, the deceased stated "when she went to the house of PW-1 in connection with the function and was serving the food, A-1 beat her by abusing her in filthy language. After reaching the house also, he beat her by saying as to why she goes near the men and when such is the attitude of A-1, how she can lead marital life with him." In

Ex.P-6 letter, she mentioned by referring to her mother "From the time of PW-2 questioning the conduct of A-1, he was very angry. After her leaving, A-1 beat her indiscriminately." In Ex.P-7 letter, she stated "A-1 was threatening her to leave the house, otherwise he will put her to harassment. He was also threatening to go for second marriage. With this kind of treatment, how long she is to continue."

18. From the contents of the above letters, it is clear that A-1 was harassing the deceased both physically and mentally and humiliating her to the maximum extent till the date of death. The trial Court, by taking into consideration that the deceased committed suicide by bolting the door from inside, found A-1 guilty of the offence u/s 306 of IPC.

19. The learned Counsel for the petitioner submitted that mere beating and abusing the deceased is not sufficient to attract the offence of abetment of suicide, therefore, the trial Court erred in coming to a conclusion that A-1 is liable to be convicted for the offence u/s 306 of IPC. In support of his contention, the learned Counsel referred to the following Judgments:

In *Shanta Devi Vs. Municipal Commissioner, Nizamabad Municipality and Another*, a learned single Judge of this Court considered the scope of Section 306 read with 109 of IPC.

In the case covered by the above decision, the prosecution alleged that there were quarrels between the family of the accused and the family of the deceased at the public tap for getting water. The marriage of the deceased was fixed on 08-11-1991. The accused were threatening and abusing deceased and her mother that they reveal the illicit contacts of the deceased to her would be husband, therefore, both the woman went and jumped into a high level canal. The deceased drowned, but somebody rescued her mother. Subsequently, she committed suicide by setting fire on herself.

In the light of those circumstances, the Court held that:

Mere threatening words by the Accused is not sufficient to attract the offence of instigation for the commission of suicide by the deceased.

In *Neelam @ Bondila Lachaiah and Anr. v. State of A.P.* 2002 (1) ALD (Cri.) 539 (AP), a learned single Judge of this Court, while appreciating the facts that some humiliation was caused by the accused to the deceased, held that:

It cannot be said that the humiliation caused by the accused amounts to instigation which prompted the deceased to commit suicide or that the accused have intentionally aided the deceased in committing suicide, therefore, it is difficult to hold that the accused have abetted the commission of suicide by the deceased.

In the case covered by the above decision, the deceased went along with two others to attend the marriage of the daughter of their relation. On the date of

marriage some unknown offenders committed theft of Rs. 2,000/- in the house of the person who performed the marriage. In that connection, the accused were called for the enquiries for detecting the theft and the first petitioner secured sacred rice (Manthram Biyyam) and administered the said rice to the deceased and some other persons. The petitioners constantly humiliated the deceased holding that the deceased committed theft of Rs. 2,000/- in the house of the person who performed the marriage. Due to the said humiliation, the deceased went to his village and consumed Endosulfan pesticide poison and committed suicide.

In the light of the above circumstances, the Court held that mere humiliation caused by the accused does not amount to instigation to commit suicide.

In *P. Srinivasulu Vs. The State of A.P.*, a learned single Judge of this Court held that:

Mere abusing the deceased does not amount to abetment to commit suicide unless something more is done in pursuance of the said act of abuses.

In the case covered by the above decision, the prosecution alleged" that the deceased was married to the accused. They lived peacefully for about 3 V2 years. The accused was running a sweet stall for livelihood. The accused ever since shifting their residence to another house, started harassing, ill-treating and subjecting the deceased to cruelty to extract more dowry from her parents and also alleging that they had no issues on account of the deceased. When the deceased was under medical check up and treatment for children, the accused took her forcibly to his house without caring for the request of her parents that the treatment should be continued. Due to continuous harassment and ill-treatment by the accused, the deceased disgusted with her life, poured kerosene and set fire to herself to commit suicide. The Accused who was present in the house extinguished fire and shifted the deceased to Osmania General Hospital, Hyderabad for treatment. The dying declaration of the deceased was recorded. The deceased succumbed to the burns while undergoing treatment during the same night.

In the light of the above circumstances, the court held that mere abuses cannot amount to abetment to commit suicide.

In *Spl. Dy. Collector (Land Acquisition), Telugu Ganga Project Unit-I Vs. Sannapu Reddy Pakeera Reddy*, a learned single Judge of this Court considered the scope of Section 306 of IPC.

In the case covered by the above decision, the deceased was an Assistant Secretary of Markapur Gram Panchayat. He committed suicide and the letter was found in the pocket of the deceased, which contains the allegation that the accused has been harassing him by getting petitions filed against him and as such, he lost his mental peace and in furtherance of that, he committed suicide. The Accused is a practicing Advocate at Markapur appearing in a number of civil

and criminal cases. He issued several legal notices to the deceased for his alleged illegal acts and at the instance of a retired teacher, who was alleged to have been cheated by the deceased, the petitioner filed a private complaint against the deceased for the offence u/s 420 of IPC and the same is pending. The petitioner also filed E.P. on behalf of the decree holder for a money decree for realization of the said amount by ordering arrest of the deceased. The deceased was suspended from the post of the Assistant Secretary of Markapur Gram Panchayat for his alleged involvement in misappropriation of various funds of the Gram Panchayat in which a notice was issued by the Revenue Divisional Officer and a retired teacher on whose behalf the petitioner filed a private complaint also made a representation to the Chief Minister marking copies to various authorities for taking necessary action against the deceased for his illegal action wherein, inter alia, it is alleged that the deceased swallowed a cheque amount of Rs. 50,000/- payable to one Anasuyamma. The deceased being upset over the action initiated against him committed suicide. In the suicide note, except stating that the accused filed cases and harassed him, no other specific incidence or willful act was pointed out due to which he committed suicide.

In the light of the above circumstances, the Court held that:

Since the suicide note of the deceased do not indicate the petitioners" committing any willful act or omission, intentionally aided or instigated the deceased in committing the act of suicide they cannot be charged for the offence u/s 306 I.P.C. Except omnibus allegation against the Accused No. 2 that he helped the Accused No. 1 in harassing, no other allegations are made against them. In view of the same, these two criminal petitions are liable to be allowed

In *Netai Dutta v. State Of West Bengal* AIR 2005 SCW 1326, the Supreme Court had an occasion to consider the suicide note to implicate the persons mentioned in the suicide note as accused and held that:

In absence of any willful act or incidence or omission or intentionally aided or instigated the deceased in committing the act of suicide and in the absence of any contents in the suicide note to make out offence against the accused which ultimately instigated or resulted in the committal of suicide by the accused, registration of a crime only on the basis of the suicide note without any factual foundation and the prosecution initiated against the accused are liable to be quashed. The case on hand is similar to the said case where the Apex Court considered and quashed the proceedings in the allegations made in the suicide note.

20. There are another set of Judgments rendered by the Supreme Court describing the circumstances under which the acts by the husband and his men can be treated as abetment for the commission of the suicide by the wife.

21. In *The State of Punjab Vs. Iqbal Singh and others*, , the Supreme Court held that when the wife committed suicide due to strained relationship with her husband over dowry, when there was ill-treatment given to the wife, when the

wife was apprehending danger to her life, seeking police protection, divorce deed executed subsequently, but not acted upon, when the wife was apprehending bloodshed and when the husband severely beaten the deceased the day before she committed suicide, it is a clear case of the husband responsible for creating circumstances which provoked or forced the wife to commit suicide. The husband is liable to be convicted u/s 306, IPC.

22. In *Brij Lal Vs. Prem Chand and Another*, the Supreme Court, while dealing with Sections 306 and 107 Explanation II of the Indian Penal Code, held that where the husband repeatedly demanded money from his wife quarrelling with her everyday over payment of money and reacting to her comment that she preferred death to life in this world, that she can provide him relief quicker by dying on very same day and that she need not postpone her death to the next day and the wife committing suicide by setting fire to herself amounts to instigation to the deceased wife to commit suicide.

23. In the case covered by the above decision, there was overwhelming evidence to establish that the life of the deceased was made intolerable by the accused by constantly demanding her to get him money and also beating her frequently, in spite of her writing to her brother and mother for a sum of Rs. 1,000/- being sent immediately, the accused did not relent in his insistence for immediate compliance of his demand. The accused wanted immediate payment of the money and went to the extent of saying that the deceased can go to hell, but he should get Rs. 1,000/- forthwith. The deceased on the fateful day reacted by saying that because of the accused quarrelling with her everyday over the payment of money, she preferred death to life in this world. The accused, far from expressing regret for his conduct, drove her to despair by further saying that she can provide him relief quicker by dying on the very same day and that she need not postpone her death to the next day. After leaving deceased in the house, the accused went to the Court. He was practicing as an Advocate. One hour later the deceased committed suicide by setting fire to herself.

24. The Supreme Court, in the above factual background, observed that it is not a case where the deceased wanted to commit suicide for reasons to her own and the accused had facilitated her in the commission of suicide. The Supreme Court also held that the abetment of the commission of suicide by the deceased wife is clearly due to instigation and would therefore fall under the first clause of Section 306, IPC. The Supreme Court, while rendering the above Judgment, further observed as follows:

23. As to what would constitute instigation for the commission of an offence would depend upon the facts of each case. Therefore, in order to decide whether a person has abetted by instigation the commission of an offence or not, the act of abetment has to be judged in the conspectus of the entire evidence in the case. The act of abetment attributed to an accused is not to be viewed or tested in isolation. Such being the case, the instigative effect of the words used by the accused must be judged on the basis of the distraught condition to which the

accused had driven Veena Rani.

25. In *Gurbachan Singh Vs. Satpal Singh and others*, , the Supreme Court after considering the evidence of the father and sisters of the deceased that the deceased complained to them about the torture of her in-laws for bringing insufficient dowry and accusing her of carrying illegitimate child leading to the commission of suicide by the deceased by burning amounts to instigation to the deceased to commit suicide. In the case covered by the above decision, the Supreme Court observed as follows:

30. We have already referred hereinbefore to the evidences of the prosecution witnesses who clearly testified to the greedy and lusty nature of the accused and that they persistently taunted the deceased and tortured her for not having brought sufficient dowry from her father. It is also in evidence that they also taunted her for carrying an illegitimate child. All these tortures and taunts caused depression to her mind and drove her to take the extreme step of putting an end to her life by sprinkling kerosene oil on her person and setting fire. Circumstantial evidence as well as the evidences of the prosecution witnesses clearly prove beyond reasonable doubt that the accused persons instigated and abetted Ravinder Kaur, deceased in the commission of the offence by committing suicide by burning herself. The findings arrived at by the High Court without considering properly the circumstantial evidence as well as the evidences of the prosecution witnesses cannot be sustained. As such the findings of the High Court are liable to be reversed and set aside.

26. In *Shaik Ibrahim v. State of A.P.* 2005 (1) ALD (Cri) 163, the question regarding the abetment of suicide of a minor girl by imputing unchastity came up for consideration. A learned single Judge of this Court, while confirming the conviction against A. 1, observed as follows:

26. A family in the Indian Society, whether big or small, rich or poor, wants to live in peace with some dignity and reputation. Indian women do not tolerate insults and get offended at the slightest remarks made against them, and moreover, when touching remarks with respect to their chastity are made, and they become so sensitive that they even go to the extent of giving up their lives, and in fact, give up their lives, instead of leading an unceremonious life. In Indian Society, chastity is regarded as a women's virtue, and no woman would digest if any person makes touching remarks or casts aspersion against her chastity or doubts her chastity, even if it will be her husband. Indian woman prefers to lead honourable life than lead a life of unchastity or with insults touching her honour. In spite of modernization in the world, yet rural India continues to be traditional and follows the customs with utmost regard. In the instant case, the deceased was unable to bear the words uttered by A. 1., and such utterances, on the fateful day, made her to kill herself by dousing kerosene on her body and lighting it up. P.W. 1 spoke about the incident and P.W. 2 corroborated the same and this is direct evidence. No doubt their evidence in relation to pre-incident is more in the nature of hearsay, but the fact remains

that the accused teased her by making touching remarks against her chastity, and if this conduct of A. 1 on the fateful day is not construed as instigation or abetment, then what else would constitute abetment, and this Court is at a loss to understand. Instigation" or abetment has to be understood in the context of age of the deceased, the society in which she lives, and the social acceptance of the nature of the words uttered by A. 1 and the attending circumstances.

27. The case covered by the above decision is a case of a young girl of 15 years and the deceased girl and three accused are residents of the same village. The deceased was studying at Eturunagaram and she used to attend the school at Kturunagaram from her village. Since 2 or 3 months prior to the date of occurrence. A. 1 to A.3 who were also students, teased her and pelted stones on her. When she made complaint to her mother and grandmother, they assured to warn the accused, but the eve-teasing was continued by the accused. On 25-6-1993 the mother and grandmother of the deceased asked A. 1 and his mother about the misbehaviour and on that A. 1 picked up quarrel and uttered that Bhavani was having illicit intimacy with him and attributed unchastity. The deceased could not bear the insult, went inside the house and set fire to herself by pouring kerosene. She was shifted to the Government hospital and on the next day she died.

28. In Pawan Kumar and Others Vs. State of Haryana, , the Supreme Court, while dealing with a dowry death case, observed as follows:

In cases of dowry deaths and suicides, circumstantial evidence plays an important role and inferences can be drawn on the basis of such evidence, that could be either direct or indirect.

29. In the case covered by the above decision, there was repeated demand from the husband's side from the girl and her parents for the various articles and on failure, the girl was tortured, harassed by words and deeds, amounting to cruelty. One day before the fateful day, the husband saturated the mental agony and cruelty by quarrelling with the wife even at her sister's place, leaving no option which led the deceased to commit suicide. The mental state is further clear by the words, which she spoke to her sister, "it would be difficult now to see her face in the future".

30. In the light of the above facts, the Supreme Court held as follows:

In our opinion all this would constitute to be an act which would be an abetment for the commission of the suicide by the girl. The husband, in the present case, has not led any cogent evidence or brought any circumstances to dislodge the aforesaid inference. Of course benefit of doubt, to the accused would be available provided there is supportive evidence on the record. Hence, for creating doubt or granting benefit of doubt, the evidence was to be such which may lead to such doubt. We do not find that present is a where any benefit of doubt results at least against the husband. There is direct evidence, as stated by the aforesaid witnesses, that soon before her death she was subjected to cruelty by the

husband.

31. The learned single Judge further observed that the deceased Bhavani would not have committed suicide but for the acts and utterances made by the accused on the fateful day and the evidence placed by the prosecution satisfied the ingredients of Section 305, I.P.C. and accordingly A-1 is liable for punishment.

32. In the light of the above evidence, it has to be examined whether the above acts of harassment amount to an offence u/s 306 IPC.

33. The learned Senior Counsel submitted that as the material placed by the prosecution does not attract the ingredients of Section 107 IPC, the accused are not liable to be convicted for the offence u/s 306 IPC. The learned Senior Counsel in support of his contention placed strong reliance on the following judgments:

34. In *V. Shankaraiah Vs. State of A.P.*, a learned single Judge of this High Court while dealing with Sections 306(iii) and 107 IPC held that in a case of suicide alleged to have been committed by the deceased on account of cancellation of her marriage with A.1 after its settlement and on account of the paternal uncle of the accused humiliating the deceased along with A.1 and father of A.1, it does not amount to instigation as the ingredients of Clauses (i) and (ii) of Section 107 are not attracted. The Court further held that since no aid was given by the accused to the deceased, Clause (iii) of Section 306 does not apply.

35. In *Shri Ram Vs. The State of U.P.*, the Supreme Court held that in order to constitute abetment, the abettor must be shown to have intentionally aided the commission of the crime. It is clearly held that mere proof that the crime could not have been committed without the interposition of the alleged abettor is not enough compliance with the requirement of S.107 IPC. Various High Courts have taken a view that merely because a person committed suicide by feeling insulted or humiliated, due to the comments or utterances made by the accused, the accused cannot be said to be guilty of an offence u/s 306 IPC.

36. In *Devraj v. State of H.P.* 1991 (3) Crimes 383 a partner in a firm committed suicide due to the other partners (accused) taking away large sums of money out of partnership fund for various purposes and their not rendering an account to the deceased, and for not permitting the deceased utilizing the profits. The other partners in the firm who are accused of an offence u/s 306 IPC for the suicide of the deceased, were held to be not guilty of such offence.

37. In *Alka Grewal Vs. State of M.P.*, a woman was held to be not guilty of an offence u/s 306 IPC for her husband committing suicide, after feeling insulted and humiliated due to her immoral conduct. The Court specifically held that though she may be the cause for suicide of her husband, she cannot be said to have abetted his suicide.

38. In *State of Gujarat Vs. Pradyuman Ramanlal Mehta and Others*, the publishers and others responsible for publication of a defamatory article are held to be not guilty of an offence u/s 306 IPC for the defamed person's suicide on

feeling humiliated due to the defamatory publication.

39. In *V. Adinarayana and Another Vs. State of A.P.*, a woman committed suicide when the accused threatened her that he would reveal her illicit connection to her husband. The accused was held to have not committed an offence u/s 306 of IPC.

40. In *Mahendra Singh and Another, Gayatribai Vs. State of M.P.*, the Supreme Court held that merely because the deceased woman stated in her dying declaration that she was harassed by the accused, the accused cannot be held guilty of an offence u/s 306 IPC.

41. In *Ramesh Kumar v. State Of Chhattisgarh* 2002 (1) ALT (Cri.) 80 (SC), the Supreme Court while considering Section 306 and 498-A IPC and contents of a letter written by the deceased held that the letter nowhere indicates any demand of dowry having been made by the accused or the deceased having been pressurized by the accused for bringing more dowry. The Supreme Court further held that the case is not one which may fall under clauses, secondly and thirdly of Section 107 of Indian Penal Code. The case has to be decided by reference to the first clause, i.e., whether the accused-appellant abetted the suicide by instigating her to do so. The Supreme Court at paragraph No. 21 of the judgment also observed as follows:

21. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

42. In *Randhir Singh v. State of Punjab* 2005 SCC 56, the Supreme Court held as follows:

Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence u/s 306 IPC.

43. In the case on hand, the following evidence is available on record regarding the circumstances under which the acts of the Accused amount to abetment of the commission of suicide by the deceased:

1. Whenever the deceased was opening the doors of the window for getting air,

A-1 used to beat her by saying that she was looking at her paramours;

2. Whenever the deceased was accompanying A-1 on his scooter and if anybody happens to stare at her, A-1 used to question her whether those men are her paramours and used to beat her on the way;

3. A-1 also used to beat the deceased with iron rod and stick at the house; and

4. When the deceased served food to the men attended the function at the house of PW-5, A-1 beat her by saying as to why she spoke to those men, who are no other than her maternal uncles.

44. On 28-06-1998 i.e., the prior day of the incident, PW-3 went to the house of A-1 to invite the deceased for varalakshmi pooja at their house. The deceased wept before her and told that A-1 to A-4 were on terrace of the house on the prior day and were attributing sorcery to her mother and on that pretext also, A-1 beat the deceased on the prior night and the deceased had shown the injuries to PW-3. The deceased also stated that A-1 warned to kill and throw her into the tank. PW-4 stated that A-1 to A-3 were harassing the deceased demanding for more dowry and A-1 was also suspecting the character of the deceased and was harassing her. He went along with other elders and questioned A-1 about the harassment. When PW-5, the elder brother of the deceased, visited the house of A-1 at 3 or 4 times, A-1 beat the deceased on the ground that why her brother was visiting their house frequently. PW-6, a Medical Practitioner, also deposed that the deceased told him that A-1 was harassing her by suspecting her and demanding more dowry. On the instructions of PW-1, he went to the house of PW-1 and found the deceased weeping in the presence of A-1 and A-2. When he asked the deceased as to why she was weeping, she told that the sister of A-1 by name Sarada threw water in which the cups were cleaned and in that connection, when she questioned Sarada as to why she threw water on her, A-3 abused and beat her. A-1 also beat her with iron rod on the left knee. PW-12, the doctor, who conducted postmortem examination over the dead body of the deceased, found an abrasion of V2 cm x V2 cm reddish in colour 3 cm in front of right ear.

45. In Ex.P-4, letter, the deceased expressed her anguish as to how she has to lead marital life successfully if A-2 comes and talks to A-1 frequently. In Ex.P-5, letter, the deceased stated that when she went to the house of PW-1 in connection with a function and served food, A-1 beat her by abusing in filthy language. After reaching the house also, he beat her by saying as to why she goes near men and when such is the attitude of A-1, how she can lead marital life with him. In Ex.P-6, letter, the deceased mentioned that from the time of PW-2 questioning the conduct of A-1, he was very angry and beat her indiscriminately. In Ex.P-7, letter, the deceased stated that A-1 was threatening to leave the house, otherwise he will put her to harassment and threatening to go for second marriage. The deceased expressed her anguish by mentioning in the letter when this kind of treatment is meted to her by A-1, how long she has

to continue to live.

46. A-1 resorted to attribute relations with everybody and was suspecting the fidelity of the deceased. From vedik times, the Indian woman treated "chastity" as a virtue and were protecting it at any cost. No woman would be in a position to bear anybody suspecting her chastity and any remarks casting aspersions against her including her husband. The Indian woman prefers to lead honourable life than the life of a woman of easy virtue. The deceased was complaining repeatedly about the attributions made by A-1 and her inability to bear with the words uttered by A-1. The repeated utterances and physical assaults made by A-1 left no option to the deceased except end her life. Though there is no direct evidence of A-1 making the deceased to commit suicide, there is evidence that A-1 teased her by making touching remarks against her chastity and if this conduct of A-1 on the earlier night of the fateful day is not considered as instigation or abetment, then what else would constitute abetment? This court, therefore, of the view that the instigation or abetment has to be inferred in the context of the time from the date of marriage. The continuous harassment, the attribution of relations with other men, making physical assault on some pretext or the other, the society in which she lives and the social acceptance of the nature of the torture, she was put to, by uttering intolerable words by A-1 and the attending circumstances will attract Section 306 of IPC, therefore, the lower Court was right in coming to a conclusion that A-1 is liable to be convicted for the offence u/s 306 of IPC and I do not find sufficient force in the submission made by the learned Counsel for the petitioners and there are no grounds to interfere with the conviction imposed by the lower Court and confirmed by the Appellate Court for the offence u/s 306 of IPC against A-1.

47. Regarding the sentence of imprisonment, the learned Counsel for the petitioner submitted that the trial Court imposed the sentence of rigorous imprisonment for seven years and fine of Rs. 5,000/-, whereas the Appellate Court, while confirming the conviction, reduced the sentence of imprisonment to three years and confirmed the fine imposed by the trial Court, therefore, he requested to further reduce the sentence of imprisonment imposed against the petitioner.

48. By. taking into consideration the facts and circumstances of the case and the submissions made by the learned Counsel for the petitioner, I am inclined to reduce the sentence of rigorous imprisonment of three years imposed by the Appellate Court against the petitioner to one year.

49. In the result, the Criminal Revision Case is allowed in part. The conviction imposed on the petitioner is confirmed and the sentence of rigorous imprisonment of three years imposed by the Appellate Court is reduced to one year. The fine amount and the default sentence remain undisturbed.